



**CALIFORNIA EMERGENCY MANAGEMENT AGENCY  
LOCAL ASSISTANCE MONITORING BRANCH  
3650 SCHRIEVER AVENUE  
MATHER, CALIFORNIA 95655  
PHONE: (916) 845-8120 FAX: (916) 845-8380**

August 17, 2009

Mr. John Gulserian  
Emergency Services Officer  
Butte County  
25 County Center, Suite 200  
Oroville, CA 95965

**SUBJECT: COMPLIANCE REVIEW REPORT  
EMERGENCY MANAGEMENT PERFORMANCE GRANT  
GRANT: 2008-2009, OES #007-00000**

Dear Mr. Gulserian:

The California Emergency Management Agency (Cal EMA) (formerly the Governor's Office of Emergency Services) conducted a compliance field review on June 23, 2009, for the referenced grant. The purpose of the review was to determine if your organization complied with applicable laws, regulations, guidelines, and policies.

The above grant was reviewed for compliance with the administrative and fiscal requirements as outlined in the Office of Management and Budget Circulars (OMB) and the Code of Federal Regulations (CFR). Our scope included reviewing fiscal and accounting records for the grant and the supporting documentation for your Reimbursement Request dated May 3, 2009, in the amount of \$27,821. Cal EMA met with John Gulserian and Cindi Dunsmoor of Butte County Office of Emergency Management (OEM), and examined the County's payroll records, timesheets, invoices, mileage logs, contract agreement, organization chart, contracting/purchasing policy and procedure manual, and training certificates. In general, the Cal EMA monitors were very pleased with Butte County's documentation for this grant.

**Executive Summary:**

Grant Type(s):	Emergency Management Performance Grant
Review Type:	Compliance Field Review
Scope:	Fiscal and Administrative
Review Period(s):	October 1, 2007 – June 30, 2009

**Findings Summary:**

1. Proper certification and/or verification regarding Suspension and Debarment was not obtained or documented.

2. Contracts do not contain all required Federal provisions.

Following is the detailed Finding resulting from the Compliance Field Review. Findings are discoveries that, within the context of a review process, represent operational deficiencies or errors, material program weaknesses or unacceptable program liabilities that could result in questioned grant costs, or collectively characterize a significant risk to program integrity.

## **FINDINGS**

**Finding #1: Proper certification and/or verification regarding Suspension and Debarment was not obtained or documented.**

### **Requirement:**

44 CFR Part 13, Subpart C, Section 13.35 states, "*Grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."*

44 CFR Part 17 outlines the government-wide suspension and debarment requirements. 44 CFR Part 17, Appendix B (7) states, "*A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, Subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs."*

### **Observation:**

Although it was evident that the Butte County staff is familiar with the process of checking the Suspension and Debarment list on the federal *Excluded Parties List System* ([www.epls.gov](http://www.epls.gov)), staff was not able to provide evidence that the list was checked prior to the monitoring visit for the contract with Avtex, Inc., a provider of reverse 911 services. Additionally, there was no Suspension and Debarment language contained in the contract agreement. The County must check the federal *Excluded Parties List System*, prior to awarding the contract, to ensure the contractor was not excluded from participation, or include in the contract a separate "*Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions*" statement.

**Required Corrective Action:**

A corrective action plan (CAP) must be submitted which describes by when and how the Butte County OEM will take steps to ensure that future subaward agreements funded by federal awards either: 1) incorporate the appropriate Suspension and Debarment clause as outlined in 44 CFR Part 17, Appendix B; or 2) have received verification through the Excluded Parties List System that contractors are not excluded from participation in the federal award.

**Finding #2: Contracts do not contain all required Federal provisions.**

**Requirement:**

44 CFR Part 13, Subpart C, Section 13.36 (i) states, *"Contract provisions. A grantee's and subgrantee's contracts must contain provision in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy."*

**Observation:**

The following compliance provisions were missing from the contract with Avtex, Inc.: 1) grant access to contractor books, documents, paper, and records which are directly pertinent to that specific contract; and 2) retention of all required records for three years after final payments and all other pending matters are closed. In order to ensure that Butte County OEM's contracts meet the minimum federal contract language requirement, steps must be taken to ensure that the current Avtex, Inc. contract and all future procurement contracts funded by FEMA grants include all applicable provisions contained in 44 CFR Part 13, Subpart C, Section 13.36 (i).

**Required Corrective Action:**

Please submit a CAP which describes by when and how the County will take steps to ensure that future procurement contracts include all applicable provisions contained in 44 CFR Part 13, Subpart C, Section 13.36 (i). The contract with Avtex, Inc. also must be amended to include the missing access and retention requirements.

**ADVISORY RECOMMENDATION(S)**

Following are additional observations and Advisory Recommendations resulting from the compliance review:

- 44 CFR Part 13, Subpart C, Section 13.20 (b)(1) states, *"Accurate, current and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant."* Cal EMA

recommends that staff trainings and activities outlined in the Monthly Administrative Related Cost Report be accurately logged under the correct months in which the charges were incurred. This did not affect the total quarterly reimbursement request amount reviewed; however, this practice could result in incorrect reimbursement requests in the future.

- 44 CFR Part 13, Subpart C, Section 13.36 (c)(1) states, "*Competition. All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 13.36.*" In order to ensure full and open competition, the County must initiate a new procurement for reverse 911 services once the contract with Avtex Inc. expires in February 2011. Additionally, Cal EMA recommends adequately documenting the procurement process, per 44 CFR Part 13, Subpart C, Section 13.36 (b)(1) which states, "*Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.*"
- 44 CFR Part 13, Subpart C, Section 13.36 (e)(1) states, "*The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.*" Cal EMA recommends including language from 44 CFR Part 13, Subpart C, Section 13.36 (e) in the County's Contract/Purchasing Policy and Procedure Manual in order to ensure that the County makes it a standard practice to take affirmative steps to contract with small and minority firms, women's business enterprise, and labor surplus area firms whenever possible.

If the subrecipient desires to either challenge or disagree with any of the referenced Findings or Advisory Recommendations included in this report, the subrecipient must respond with their written comments to Cal EMA, along with inclusive supporting documentation, to the address shown on the Cal EMA letterhead, attention Local Assistance Monitoring Branch.

Since there is a significant Finding included in this report, formal corrective action is required to ensure that the issue is addressed in a timely manner. The attached document, "Subrecipient Corrective Action Procedures" provides detailed instructions for developing the CAP. The CAP should be submitted to Cal EMA within 30 days from the date of this letter.

You are encouraged to work with your assigned Regional Coordinator, Deborah Russell, to develop your CAP.

John Gulserian  
August 17, 2009  
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Thank you for the courtesy and cooperation you extended Cal EMA in completing this review. If you have any questions about this letter or the enclosures, please contact Julie In at (916) 845-8127 (Julie.In@oes.ca.gov), or Joel Ryan at (916)845-8165 (Joel.Ryan@oes.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Catherine Lewis", with a stylized flourish at the end.

CATHERINE LEWIS  
INTERIM BRANCH CHIEF

Enclosure

cc: Cindi Dunsmoor, Office of Emergency Management, Butte County  
Peggy Okabayashi, Cal EMA Assistant Secretary  
Deborah Russell, Regional Coordinator, Inland Region  
Yvonne Cantrell, Cal EMA Grant Coordinator  
Subrecipient File